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Witness Angel Fisher

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Witness [redacted]

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Witness Admonition form signed by [redacted]

Witness Admonition form signed by [redacted]

Witness Admonition form signed by Witnes [redacted]

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California Department of Motor Vehicles Registration, Ca. 7L64819

Compton Station Early Morning Shift In-service, October 2, 2015

JDIC Broadcast regarding deputy transfers effective October 4, 2015

AFIS Printout

INTERNAL AFFAIRS BUREAU

INVESTIGATIVE SUMMARY

IV 2390151

SUBJECT: **MIZRAIN J. ORREGO, DEPUTY, #[redacted]**

DATE(S) / TIME OF INCIDENT: **OCTOBER 2, 2015, 0250 HOURS**

ALLEGATIONS:

It is alleged Deputy Mizrain J. Orrego, #[redacted], while off-duty, and in possession of his firearm, was arrested by the Orange Police Department for driving a vehicle while under the influence of alcohol.

SYNOPSIS:

On October 2, 2015, Witness Officer [redacted] of the Orange Police Department observed a 2004 GMC pick-up truck, California [redacted], fail to stop at a red traffic light northbound Main Street to westbound Taft Avenue in the City of Orange. The truck, which displayed expired registration tabs (April, 2015), was driven by a sole occupant, Subject Orrego.

> IAB Note: **The truck was registered to Subject Orrego's friend, Witness Deputy [redacted]. Subject Orrego allowed Witness [redacted] to temporarily store the truck at Orrego's home and Subject Orrego had permission to drive it as needed ([redacted] Transcripts, Pages 4-5).**

Witness [redacted] subsequently conducted a traffic stop and contacted Subject Orrego at his driver's window.

During her initial contact, Witness [redacted] advised Subject Orrego of the reason for her stop. Subject Orrego responded by identifying himself as a deputy sheriff. When asked to provide his driver's license, Subject Orrego instead gave Witness [redacted] his Los Angeles County Sheriff's Department photo identification card. Witness [redacted] would later recover Subject Orrego's driver's license from his wallet. During her conversation at the truck's window, Witness [redacted] detected an odor of alcohol emitting from Subject Orrego's breath and observed a holstered pistol on the seat, near his right hip.

> IAB Note: **The firearm was Subject Orrego's personally owned, 9 MM Smith and Wesson M&P Shield (Orrego Unit Level Transcripts, Pages 5-6). See AFIS Printout in Miscellaneous Documents.**

At Witness [redacted]s direction, Subject Orrego remained inside the truck until additional police officers arrived on scene.

While Witness [redacted] waited for her back-up units, Witness Deputy [redacted] approached on foot, along the north sidewalk of Taft Avenue. Witness [redacted] spoke briefly with Witness [redacted] and was directed to wait a distance away from the traffic stop. Witness [redacted] later learned Witness [redacted] was also a deputy sheriff and a friend of Subject Orrego. During Witness [redacted]s DUI investigation, both Subject Orrego and Witness [redacted] told officers they, along with co-workers had patronized the Tilted Kilt restaurant/bar where they both drank beer and celebrated Department transfers and a sergeant's promotion.

> **IAB Note:** **Witnesses [redacted], [redacted] and former Deputy [redacted] transferred from Compton Station on [redacted]. There were no Sergeant promotions during [redacted]**

Subject Orrego and Witness [redacted] later told Internal Affairs Bureau investigators that although they went to the Tilted Kilt to celebrate Department transfers, with the exclusion of each other, never saw the presence of other Department members **(Orrego IAB Transcripts, February 24, 2017, Pages 5, 12-13 and [redacted] Transcripts, February 24, 2017, Pages 6, 13)**. Witness [redacted] also conceded to Internal Affairs Bureau investigators that he did not have a specific friend who promoted to sergeant and made that statement to the Orange Police because he wanted to be agreeable with their questions.

> **IAB Note:** **Subject Orrego told Witness Officers he was driving his friend's truck because his friend had left the party with someone else. The registered owner, Witness [redacted], told Internal Affairs Bureau investigators he never attended the Tilted Kilt gathering ([redacted] Transcripts, Page 5). Subject Orrego later told Internal Affairs Bureau investigators Witness [redacted] was not at the Tilted Kilt.**

With the arrival of assisting Witness Officers [redacted] and Witness Sergeant [redacted], Subject Orrego was directed to exit his truck regarding a driving under the influence investigation. During the investigation, Witness [redacted] asked Subject Orrego a series of field interview questions, administered a set of standardized field sobriety tests, then offered the opportunity to provide a voluntary breath analysis. Subject Orrego answered the questions and performed the tests as asked, but declined to provide the breath sample. Based on the objective symptoms displayed by Subject Orrego, along with his performance during the field sobriety tests, Witness [redacted] arrested Subject Orrego for driving under the influence of alcohol. See **[Exhibit A, Pages 2-3]**.

After being advised of his arrest, Subject Orrego was offered a choice to provide either a breath or blood sample to satisfy the chemical test requirement pursuant to California State Law. Subject Orrego initially chose to submit to a breath test, but could only provide one of the two required samples. The single sample obtained at 0323 hours showed Subject Orrego had a blood alcohol concentration of .13. Because of Subject Orrego's inability to provide the second breath sample, the test was voided. Consequently, a blood sample was drawn at 0402 hours. The sample later revealed Subject Orrego's blood alcohol concentration at .14.

Throughout her investigation, Witness [redacted] perceived Subject Orrego as somewhat uncooperative and unprofessional. She described moments in which Subject Orrego mocked the Orange police officers, referring to them as, "Not even real cops," and that the arrest was her, "Felony hook for the night." He made reference to working in Compton where, "Real crime" occurred and that her duties did not compare to his. She also referred to his use of profane language and reluctance to provide requested documents such as his driver's license, registration, and proof of insurance **([redacted] Transcripts, Pages 17-20)**. The other officers on scene mirrored Witness [redacted]'s perception of Subject Orrego's behavior, describing him as, "A bit mouthy" **([redacted] Transcripts, Pages 5-6)**, incredulous over the DUI investigation, **([redacted] Transcripts, Page 6)**, and purposely manipulating the PAS device to create a voided test **([redacted] Transcripts, Page 6)**.

At the conclusion of the investigation, Subject Orrego was released in the field and issued a citation for 23152(a) CVC and 23152(b) CVC. Witness [redacted], who stood by during the entire investigation and whom Witness [redacted] determined was a responsible party, offered to assist the Orange police officers as needed. At one point, Witness [redacted] told the officers that deputies from Compton Station were on their way to the scene to assist.

IAB Note: **The watch commander identified as Witness Skeen, the watch sergeant, identified as Witness Thomas, and the field sergeant, identified as Witness Fisher, all indicated to Internal Affairs Bureau investigators that no deputies were sent to the scene. Witness [redacted] later told Internal Affairs Bureau investigators that he told officers about deputies responding to the scene in an effort to be helpful, but in fact never requested any such response.**

With Subject Orrego's permission, Witness [redacted] took possession of Subject Orrego's firearm. After Witness Sergeant [redacted] parked and secured Subject Orrego's vehicle in a nearby lot, the Orange police officers left the scene.

Witness [redacted] authored a police report, which was submitted as **[Exhibit A]**. The entire incident was captured on a series of dash-cam videos. Internal Affairs Bureau investigators obtained three compact discs **[Exhibit B]**, containing fifteen video files depicting dash-cam footage from the Orange Police Department. The video files

contained over-lapping and duplicate footage, with varying degrees of audio quality. For clarity and brevity in viewing, Internal Affairs Bureau investigators extracted five of the fifteen video files, which depict chronologically, the incident in entirety. The five video files were transferred onto DVD as **[Exhibit C]**.

After his release, and in Witness [redacted]s presence, Subject Orrego immediately notified the Compton Station Early Morning Shift Watch Commander, Witness Skeen of the arrest. Witness [redacted] then drove Subject Orrego home.

On June 17, 2016, Subject Orrego appeared in Orange County Superior Court and pled guilty to one count each of 23152(a) CVC and 23152(b) CVC. He was placed on summary probation for a period of three years. Refer to Court Case Number 15CM12191 MA Minutes, **[Exhibit D]**.

On June 23, 2016, a unit level administrative investigation was initiated regarding Subject Orrego's arrest and conviction. On November 16, 2016, the administrative investigation was re-assigned to Internal Affairs Bureau.

Utilizing the video files and timing feature from **[Exhibit C]**, Internal Affairs Bureau reviewed and established the following time-line:

Part 1, 53:16. No audio.

00:20: Subject Orrego and Witness [redacted] travelling in tandem, northbound Main Street, approaching Taft Avenue, Orange.
00:28: Subject Orrego fails stop at red light, northbound Main Street to westbound Taft Avenue, Orange. Witness [redacted] stops at same red light.
00:44: Witness [redacted] initiates traffic stop of Subject Orrego.
01:12: Witness [redacted] at Subject Orrego's driver's window.
04:58: Witness [redacted] motions for Witness [redacted] to come toward her.
05:06: Witness [redacted] approaches on north sidewalk and communicates with Witness [redacted]
05:14: Witness [redacted] walks away.
07:10: Witness [redacted] arrives on scene.
09:28: Witness [redacted] arrives on scene.
09:48: Witness [redacted] has Subject Orrego exit his vehicle, is patted down, then Is directed to sit on curb.
25:29: Witness [redacted] begins field interview questions regarding DUI investigation.
29:55: Witness [redacted] begins to administer field sobriety tests.
41:37: Witness [redacted] handcuffs Subject Orrego.
53:16: Video ends with Subject Orrego handcuffed and seated on curb.

Part 2, 36:29. Video and audio from assisting unit.

00:25: Assisting unit arrives and parks behind Witness [redacted]'s car. Witness [redacted] standing on north sidewalk, south of traffic stop.

01:00: Witness [redacted] tells assisting officer Subject Orrego is his ([redacted]) friend.
01:09: Witness [redacted] advises assisting unit that Subject Orrego is a, "Deputy sheriff".
01:45: Witness [redacted] advises assisting unit that both he and Subject Orrego are deputies.
03:15: Witness [redacted] enters his car as Witness [redacted] arrives on scene.
03:27: Witness [redacted] drives away from scene.
04:15: Subject Orrego tells officers he is a deputy with the Los Angeles County Sheriff's Department, Compton Station.
04:30: Subject Orrego tells officers he had come from the Tilted Kilt after celebrating a friend's going-away.
06:19: Subject Orrego tells officers he lives in [redacted] but is going to a buddy's house.
07:15: Subject Orrego admits to running red light and he, "Fucked up."
09:06: Subject Orrego tells officers he should have gotten a ride with Witness [redacted] but, "Fucked up" and asks for, "Some courtesy."
14:37: Subject Orrego discusses expired registration and explains the truck belongs to a friend and that he was driving it because the friend left the party with someone else.
19:25: Witness [redacted] begins field interview questions.
21:30: Subject Orrego tells Witness [redacted] he was drinking by himself at Tilted Kilt.
22:20: Subject Orrego tells Witness [redacted] he was on his way to the freeway.
23:40: Witness [redacted] begins to administer field sobriety tests.
35:05: Subject Orrego declines to provide voluntary breath sample.
35:27: Witness [redacted] arrests and handcuffs Subject Orrego.
36:29: Video ends with Witness [redacted] explaining mandatory chemical tests.

Part 3, 36:28. Video and audio from assisting unit.

00:00: Video continues with Witness [redacted] explaining mandatory chemical tests and asks Subject Orrego his test of choice.
00:13: Subject Orrego does not answer, but instead asks if his friend can take him home. Asks if Witness [redacted] is going to arrest a deputy sheriff.
00:26: Witness [redacted] advises Subject Orrego of his Miranda Rights, which Subject Orrego indicates he does not understand. Subject Orrego repeatedly asks if somebody can drive him home.
01:00: Witness [redacted] re-advises Subject Orrego of his Miranda Rights. When asked if he understands his rights, Subject Orrego asks if somebody can drive him home.
01:30: Subject Orrego addresses Witness [redacted] as, "Sweetie."
01:53: Subject Orrego opts to take breath test.
03:32: Witness [redacted] asks Subject Orrego about gun in truck. Subject Orrego responds the gun is personally owned.
04:05: Subject Orrego tells Witness [redacted] he (Orrego) is getting a DUI and "That's fucked up."
08:05: Witness [redacted] retrieves Subject Orrego's driver's license from his wallet.
26:35: Witness [redacted] administers first breath test (Completed, .13 B.A.C.).

30:40: Witness [redacted] administers second breath test. Subject Orrego makes four attempts, but does not provide sufficient breath to complete second test.
36:12: Witness [redacted] tells Witness [redacted] he and Subject Orrego attended a dinner with some friends who got promoted. A friend promoted to sergeant.
36:28: Video ends with Witness [redacted] talking to Witness [redacted] off camera.

Part 4, 36:28. Video and audio from assisting unit.

00:00: Video continues with Witness [redacted] speaking with Witness [redacted] off camera. Video continues to show Subject Orrego seated on curb.
00:17: Witness [redacted] tells Witness [redacted] he did not see Subject Orrego drinking.
02:02: Witness [redacted] tells officers he has already made a call to the station and asks if Subject [redacted] could be, "Released to a squad car if they come pick him up."
03:16: Witness [redacted] tells officers, "We have a car coming already."
05:02: Witness [redacted] asks Witness [redacted] if he was willing to provide a breath sample to determine the propriety of releasing Subject Orrego's vehicle and firearm into his ([redacted]'s) possession.
05:22: Witness [redacted] does not respond to the breathalyzer request, but instead tells Witness [redacted] that two deputies are coming and one can take Subject Orrego's vehicle.
08:25: Subject Orrego tells officers he is not even drunk.
09:39: Subject Orrego tells officers his firearm can be released to Witness [redacted] and that Witness [redacted] is his car partner and they can give, "Whatever the fuck they want to that guy."
10:03: Subject Orrego expresses to the officers his close friendship with Witness [redacted] and that they are real cops from Compton. Comments, "Fucken DUI, what the fuck? What is that?" "DUI, fuck."
11:51: Subject Orrego describes for officers how policing in Compton differs from policing in Orange.
12:54: Subject Orrego comments to Witness [redacted] that his DUI arrest is, "A good hook for you." "A good felony hook for you."
26:28: Technician arrives on scene.
31:20: Technician draws blood from Subject Orrego.
32:40: Subject Orrego's firearm is released to Witness [redacted].
34:45: Subject Orrego signs citation.
36:28: Video ends with Subject Orrego still seated on curb.

Part 5, 7:31. Video and audio from assisting unit.

00:00: Video begins with Subject Orrego seated on curb.
00:45: Technician departs.
04:13: Witness [redacted] parks and secures Subject Orrego's vehicle.
04:50: Witness [redacted] references capturing Subject Orrego's DMV information by, "Swiping" his driver's license.
05:32: Witness [redacted] tells Subject Orrego she kept his driver's license.
05:55: Witness [redacted] advises Subject Orrego he is free to leave.

06:08: Subject Orrego walks eastbound and out of camera view.
07:31: Video ends with W/[redacted] speaking with officers.

During his interview with Internal Affairs Bureau investigators, Subject Orrego explained that although he had been drinking, he felt compelled to move his vehicle or risk having it towed. He described parking lot signage prohibiting overnight parking and his efforts to move the vehicle to a different lot. **(Orrego IAB Interview Transcripts, February 24, 2017, Page 9)**.

> **IAB Note: The Tilted Kilt in Orange shares a parking lot with several restaurants and a movie theater. Internal Affairs Bureau investigators could not locate signage prohibiting overnight parking. However, several posted signs identified the lot as private property with customer/tenant parking only [Exhibit E]**.

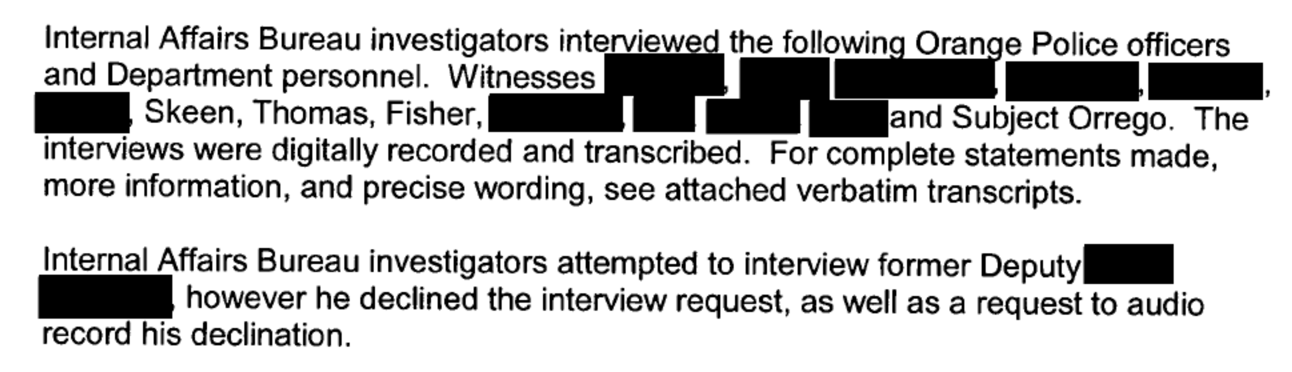
According to Witness [redacted] he never actually saw Subject Orrego drinking and Subject Orrego did not appear to be impaired when they left the Tilted Kilt. Never the less, he agreed to drive Subject Orrego home. When asked by Internal Affairs Bureau Investigators the reason for driving him home, Witness [redacted] indicated he never asked Subject Orrego for a reason **([redacted] Transcripts, February 24, 2017, Page 5)**.

Subject Orrego also described his demeanor during his arrest as cooperative, but conceded he was shocked and upset with the situation. He did not recall asking any of the police officers for professional courtesy. **(Orrego IAB Transcripts, February 24, 2017, Pages 11-12 and April 13, 2017, Page 2-3)**.
After reviewing the dash-cam footage contained in **Exhibit C**, Subject Orrego maintained he was cooperative, but acknowledged at times he appeared vocal. He explained his behavior was born from his frustration of placing himself in such a position and had not directed any animosity to the Orange police officers.

On the night of Subject Orrego's arrest, Witnesses [redacted] [redacted] [redacted], and [redacted] were among a gathering of Compton Station personnel at the Tilted Kilt celebrating the transfers of Witnesses [redacted] and [redacted]. Each witness had varying accounts as to the number of personnel in attendance, ranging from ten to thirty. Witness [redacted] recalled he and Subject Orrego arrived separately at approximately the same time and had a brief conversation as they entered the restaurant together **([redacted] Transcripts, Pages 3-4)**. Witness [redacted] attended the gathering from approximately 1900 through 0130 hours and did not recall Subject Orrego in attendance **([redacted] Transcripts, Pages 2-3)**. Witness [redacted], identified as a sergeant at Compton Station, estimated he was at the Tilted Kilt for approximately one hour and recalled Subject Orrego in attendance. While there, Witness [redacted] noticed nothing of concern regarding Subject Orrego's sobriety **([redacted] Transcripts, Page 4)**. Witness [redacted], identified as a lieutenant at Compton Station, did not recall Subject Orrego in attendance **([redacted] Transcripts, Page 4)**.

IAB Note: **The video surveillance system at the Tilted Kilt is equipped with a six month retention. As such, Internal Affairs Bureau investigators were unable to obtain surveillance footage for October 1-2, 2015.**

INVESTIGATION:



Internal Affairs Bureau investigators interviewed the following Orange Police officers and Department personnel. Witnesses [redacted], [redacted] [redacted], [redacted], [redacted], [redacted], Skeen, Thomas, Fisher, [redacted], [redacted] [redacted] [redacted] and Subject Orrego. The interviews were digitally recorded and transcribed. For complete statements made, more information, and precise wording, see attached verbatim transcripts.

Internal Affairs Bureau investigators attempted to interview former Deputy [redacted], however he declined the interview request, as well as a request to audio record his declination.



OFFICE OF THE SHERIFF

COUNTY OF LOS ANGELES

HALL OF JUSTICE



JIM McDONNELL, SHERIFF

June 8, 2017

Deputy Mizrain Orrego, #[redacted]

Dear Deputy Orrego:

You are hereby notified that it is the intention of the Sheriff's Department to discharge you from your position of Deputy Sheriff, Item No. 2708A, with this Department, effective the close of business June 30, 2017.

An investigation under IAB File Number IV2390151, conducted by Internal Affairs Bureau, coupled with your own statements, have established the following:

1. That in violation of the Manual of Policy and Procedures Sections 3-01/000.13, Professional Conduct – Core Values; and/or 3-01/030.05, General Behavior; 3-01/030.85, Derogatory Language; and/or 3-01/030.75, Bribes, Rewards, Loans, Gifts, Favors; and/or 3-01/030.10, Obedience to Laws, Regulations, and Orders (as it pertains to 23152(a) CVC, Driving Under the Influence of Alcohol or Drugs and/or 23152(b) CVC, Driving with a Blood Alcohol Concentration of .08 percent or Greater), on or about October 2, 2015, you violated state law and brought discredit and/or embarrassment to yourself and the Department when Witness Officer [redacted] of the Orange Police Department conducted a traffic stop and contacted you. Subsequent investigation determined you were under the influence of alcohol, which resulted in your arrest, as evidenced by, but not limited to:
   a. driving a vehicle while under the influence of

alcohol; and/or,

b. failed to stop at a red traffic light; and/or,

c. displaying the objective signs of intoxication and emitting the odor of an alcoholic beverage from your breath when you were contacted by Orange Police Department personnel; and/or,

d. performing poorly when personnel from the Orange Police Department administered field sobriety tests; and/or,

e. performing and/or providing one breath sample that recorded .13 percent Blood Alcohol Concentration (BAC), and/or failing to provide a second sample, ultimately voiding the test; and/or,

f. asking for favors or gratuity which would not ordinarily be accorded to private citizens; and/or,

g. making derogatory and/or demeaning comments directed at arresting officer(s); and/or,

h. failing to cooperate with arresting officers, and/or failing to provide a preliminary breath sample to arresting officers; and/or,

i. being arrested for and/or charged with 23152(a) CVC, Driving Under the Influence of Alcohol and Drugs, and 23152(b) CVC, Driving with a Blood Alcohol Concentration of .08 percent or Greater, (Orange Police Department Report Number 15-10-0051).

2. That in violation of the Manual of Policy and Procedures Section 3-01/040.75, Dishonesty/Failure to Make Statements and/or Making False Statements during Departmental Internal Investigations, on or about February 24, 2017, you made false statements during an internal investigation, as evidenced by, but not limited to:

a. claiming that you only saw Witness [redacted] at the restaurant on October 1, 2015. Whereas Witness [redacted] indicated having talked to and/or interacted with you as they arrived to the gathering sometime between 1900 and 2100 hrs, and Witness [redacted] said that he believed you were present but did not recall interacting with you on October 1, 2015; and/or,

b. stating to IA investigators that your intention was to park your vehicle and have Witness [redacted] drive you home.

3. That in violation of the Manual of Policy and Procedures Sections 3-01/040.70, Dishonesty/False Statements; and/or 3-01/040.85, Cooperation During Criminal Investigation, on or about October 2, 2015, you failed to cooperate with the Orange Police Department and/or knowingly gave untruthful or misleading statements Orange Police Department during a criminal investigation, as evidenced by, but not limited to:

a. stating to arresting officers that you were driving your friend's truck because the friend had left the party earlier, with someone else, and/or words to that effect when your friend denied being at the party at all; and/or,

b. stating to arresting officers that you had been celebrating a Sergeants Promotion and then later denying that you were drinking with anyone, and/or words to that effect; and/or,

c. failing or unwilling to provide a second breath sample; and/or,

d. asking for a courtesy due to your position as a law enforcement officer; and/or,

e. stating to arresting officers that you never saw other officers at Tilted Kilt, and/or words to that effect.

4. That in violation of Manual of Policy and Procedures Section 3-01/025.45, Safety of Firearms, on or about October 2, 2015, while off-duty and intoxicated, driving a vehicle, you were unable to exercise reasonable care and/or control of a firearm in your possession, which was on the bench seat of your vehicle, near your right hip.

Additional facts for this decision are set forth in the Disposition Worksheet, Investigative Summary and Investigative Packet, which are incorporated herein by reference.

You may respond to the intended action orally or in writing. In the event that you choose to respond orally to these charges, you have already been scheduled to meet with Chief Joseph M. Gooden, on June 30, 2017, at 1000 hours, in his office, which is located at 211 West Temple Street, Room 804, Los Angeles California 90012. If you are unable to appear at the scheduled time and wish to schedule some other time prior to June 30, 2017, for your oral response, please call Chief Gooden's secretary at [redacted] for an appointment.

If you choose to respond in writing, please call Chief Gooden's secretary to cancel your scheduled appointment, and send your response to the facts contained in this letter to Chief Gooden's office no later than June 30, 2017.

Unless you are currently on some other type of authorized leave, pursuant to Rule 16.01 of the Los Angeles County Civil Service Commission Rules, effective immediately, you are on paid administrative leave which will continue during the fifteen (15) business days you have to respond to the intended discharge or until the conclusion of your pre-disciplinary hearing. If you are presently on an authorized leave, that leave will continue during the fifteen (15) business days you have to respond to the intended discharge, or until the conclusion of your pre-disciplinary hearing.

Failure to respond to this Letter of Intent within fifteen (15) business days will be considered a waiver of your right to respond and will result in the imposition of the discipline indicated herein.

If you did not receive the investigative material on which your discipline is based at the time you were served with this correspondence, you may contact the Internal Affairs Bureau at (323) 890-5300, to obtain a copy of the case file.

The Sheriff's Department reserves the right to amend and/or add to this letter.
Sincerely,

JIM McDONNELL, SHERIFF

Josie S. Woolum, Captain
Internal Affairs Bureau

Note: Attached for your convenience are excerpts of the applicable areas of the Manual of Policy and Procedures.

JSW:JMG:pc

cc: Advocacy Unit
Employee Relations Unit
Joseph M. Gooden, Chief, Central Patrol Division
Internal Affairs Bureau
(File #IV2390151)



CIVIL SERVICE COMMISSION

COUNTY OF LOS ANGELES

July 31, 2019

FINAL COMMISSION ACTION

Subject of Hearing: *Petition of **MIZRAIN ORREGO** for a hearing on his **discharge**, effective August 1, 2017, from the position of Deputy Sheriff, Sheriff's Department,* **Case No. 17-181**.

The Civil Service Commission, at its meeting held on July 24, 2019 approved findings in the above-entitled case. The petitioner's objections were overruled. Commissioner Duran dissented. The Commission denied the petitioner's request to continue the matter.

Since a copy of these findings has already been provided to all the parties, we have enclosed a copy of the signed formal order of the Commission for your records.

Anyone desiring to seek review of this decision by the Superior Court may do so under Section 1085 or 1094.6 of the Code of Civil Procedure as appropriate. An action under Section 1094.6 can only be commenced within 90 days of the decision.

Mahdi A. Mohamed
Executive Director

Enclosure

c: Mizrain Orrego
Sherry Lawrence
Daniel Carmichael
Hugo Rossitter

BEFORE THE CIVIL SERVICE COMMISSION OF THE

COUNTY OF LOS ANGELES

*In the matter of the **discharge**, effective August 1, 2017, from the position of Deputy Sheriff, Sheriff's Department, of*

MIZRAIN ORREGO
(Case No. 17-181)

ORDER OF THE CIVIL SERVICE COMMISSION

On July 24, 2019, the Civil Service Commission of the County of Los Angeles denied the petitioner's request to continue the matter and over-ruled the Petitioner's objections. The Commission adopted as its final decision, the findings and recommendation of the Hearing Officer, Hugo Rossitter, to sustain the Department. Commissioner Duran dissented.

Dated this 31st day of July, 2019.

STEVEN AFRIAT, President

Dissented — PERCY DURAN III, Member

NAOMI NIGHTINGALE, Member

JOHN DONNER, Member

DICKRAN TEVRIZIAN, Member

LOS ANGELES COUNTY
CIVIL SERVICE COMMISSION

In the Matter of the Appeal by

MIZRAIN ORREGO

Appellant

And

**LOS ANGELES COUNTY
SHERIFF'S DEPARTMENT**

Respondent

Case No. 17-181

**HEARING OFFICER'S
FINDINGS OF FACT,
CONCLUSIONS OF LAW AND
RECOMMENDED DECISION**

APPPEARANCES

Hearing Officer:	Hugo S. Rossitter
For the Appellant:	Sherry H. Lawrence, Esq. Stone Busailah, LLP 1055 E. Colorado Boulevard Pasadena, CA 91106
For the Department:	Daniel C. Carmichael III, Esq. Law Offices of William Balderrama 606 Monterey Pass Road, Suite 111 Monterey Park, CA 91754
Hearing Dates:	April 5, April 12 and April 13, 2018

ISSUES

On October 4, 2017, the Civil Service Commission defined the issues in this matter as:

1. Are the allegations contained in the Department's letter of August 1, 2017, true?

2. If any or all are true, is the discipline appropriate?

EXHIBITS

Department:

1. Notice of Discharge, dated August 1, 2017
2. Letter of Intent to Discharge, dated June 8, 2017
3. Disposition
4. IAB Audio/Video Tracking Sheet; IAB Table of Contents; IAB Personnel Investigation Form
5. IAB Investigative Summary
6. Transcript of September 26, 2016 IAB Interview of City of Orange Police Officer [redacted]
7. Transcript of September 26 Interview of City of Orange Sergeant [redacted]
8. Transcript of September 26, 2016 IAB Interview of City of Orange Police Officer [redacted]
9. Transcript of October 11, 20116 IAB Interview of City of Orange Police Officer [redacted]
10. Transcript of February 24, IAB Interview of Deputy [redacted]
11. Transcript of April 13, 2017 IAB Interview of Deputy [redacted]
12. Transcript of February 8, 2017 IAB of Deputy [redacted]
13. Transcript of February 7, 2017 IAB Interview of Captain Jason Skeen
14. Transcript of February 6, IAB Interview of Sergeant Arthur Thomas
15. Transcript of February 13, 2017 IAB Interview of Sergeant Angel Fisher

16. Transcript of March 14, 2017 IAB Interview of Deputy [redacted]

17. Transcript of March 16, 2017 IAB Interview of Deputy [redacted]

18. Transcript of March 16, 2017 IAB Interview of Sergeant [redacted]

19. Transcript of March 20, 2017 IAB Interview of Lieutenant [redacted]

20. Transcript of August 10, 2016 IAB Interview with Deputy Mizrain Orrego

21. Transcript of February 24, 2017 IAB Interview with Deputy Mizrain Orrego

22. Transcript of April 13, 2017 IAB Interview with Deputy Mizrain Orego

23. Orange Police Department Arrest Report, DR Number 15-10-0051, attached as Exhibit "A" to IAB Investigation

24. Three (3) Compact Discs containing dash-cam footage, attached as Exhibit "C" to IAB Investigation

25. One (1) DVD containing video files from dash cam footage, attached as Exhibit "C" to IAB Investigation

26. Orange County Superior Court Minutes, Case Number 15CM12191, attached as Exhibit "D" to IAB Investigation

27. Photograph depicting parking sign

28. Miscellaneous Documents

29. Performance Recording and Monitoring System

APPELLANT:

A. Guidelines for Discipline Handbook (2015)

B. Commendation Awards

C. New York Times Article – One Police Shift: Patrolling an Anxious America re Deputy Mizrain Orrego

D. Los Angeles County Sheriff's Department 2016 Summer Crime Enforcement documents

E. County of Los Angeles Sheriff's Department Report on Performance Evaluations for Deputy Mizrain Orrego

F. Sheriff's Department Investigative Documents

G. California Unemployment Insurance Appeals Board Decision granting unemployment benefits

BACKGROUND

Appellant Mizrain Orrego (hereinafter "Appellant" or "Orrego") was employed by the Los Angeles County Sheriff's Department ("Department") as a Deputy Sheriff beginning October 5, 2007. At the time of his discharge he was a patrol deputy at the Compton Station. Orrego been assigned to the Compton Station for less than a year, and had previously served at the Department's detention centers. On October 1, 2015 Appellant attended an evening event at the Tilted Kilt celebrating the transfer of various colleagues. Appellant left the event at approximately 2:00 a.m. and was subsequently arrested by City of Orange police officers for Driving Under the Influence. By Notice dated August 1, 2017, Orrego was notified that he was discharged from his position, effective August 1, 2017. (Ex. 1)

The grounds for the discharge were:

1. Violation of the Department's Manual of Policies and Procedures Sections 3-01/000.10, Professional Conduct-Core Values; and/or 3-01/030.05, General Behavior; 3-01/030.85, Derogatory Language; and/or 3-01/030.75, Bribes, Rewards, Loans, Gifts, Favors; and/or 3-01/030.10, Obedience to Laws, Regulations, and Orders (as it pertains to 23152(a) CVC, Driving Under the Influence of Alcohol or Drugs and/or 23152(b) CVC Driving with a Blood Alcohol Concentration of .08 percent or Greater), on or about October 2, 2015, you violated state law and brought discredit and/or embarrassment to yourself and the Department when Witness Officer [redacted] of the Orange Police Department conducted a traffic stop and contacted you. Subsequent investigation determined you were under the influence of alcohol, which resulted in your arrest, as evidenced by, but not limited to:

a. Driving a vehicle while under the influence of alcohol; and/or,

b. Failed to stop at a red traffic light; and/or,

c. Displaying the objective signs of intoxication and emitting the odor of an alcoholic beverage from you breath when you were contacted by Orange Police Department personnel; and/or,

d. Performing poorly when personnel from the Orange Police Department administered field sobriety tests; and/or,

e. Performing and/or providing one breath sample that recorded .13 percent Blood Alcohol Concentration (BAC), and/or failing to provide a second sample, ultimately voiding the test; and/or,

f. Asking for favors or gratuity which would not ordinarily be accorded private citizens, and/or,

g. Making derogatory and/or demeaning comments directed at arresting officers(s); and/or,

h. Failing to cooperate with arresting officers, and/or failing to provided a preliminary breath sample to arresting officers; and/or,

i. Being arrested for and/or charged with 23152(a) CVC, Driving Under the Influence of Alcohol and Drugs, and 23152(b) CVC, Driving with a Blood Alcohol Concentration of .08 percent or Greater. (Orange Police Department Report Number 15-10-0051.

2. That in violation of the Manual of Policy and Procedures Section 3-01/040.75, Dishonesty/Failure to Make Statements and/or Making False Statements during Departmental

Internal Investigations, on or about February 24, 2017, you made false statements during an internal investigation, as evidenced by, but not limited to:

a. Claiming that you only saw Witness [redacted] at the restaurant on October 1, 2015 Whereas Witness [redacted] indicated having talked to and or interacted with you as they arrived to the gathering sometime between 1900 and 2100 hours, and Witness [redacted] said that he believed you were present but did not recall interacting with you on October 1, 2015; and/or.

b. Stating to IA investigators that your intention was to park your vehicle and have Witness [redacted] drive you home.

3. That in violation of the Manual of Policy and Procedures Sections 3-01/040.70, Dishonesty/False Statements; and/or 3-01/040.55, Cooperation During Criminal Investigation, on or about October 2, 2015, you failed to cooperate with the Orange Police Department and/or knowingly gave untruthful or misleading statements Orange Police Department during a criminal investigation, as evidenced by, but not limited to:

a. Stating to arresting officers that you were driving your friend's truck because the friend had left the party earlier, with someone else, and/or words to that effect when your friend denied being at the party at all; and/or.

b. Stating to arresting officers that you had been celebrating a Sergeants Promotion and then later denying that you were drinking with anyone and/or words to that effect; and/or.

c. Failing or unwilling to provide a second breath sample, and/or.

d. Asking for a courtesy due to your position as a law enforcement officer, and/or.

e. Stating to arresting officers that you never saw other officers at Tilted Kilt, and or words to that effect.

4. That in violation to Manual of Policy and Procedures Section 3-01/025.45, Safety of Firearms, on or about October 2, 2015, while off-duty and intoxicated, driving a vehicle, you were unable to exercise reasonable care and or control of a firearm in your possession, which was on the bench seat of your vehicle, near your right hip.

EVIDENCE

Appellant has been employed by the Department since 2007 in the capacity of Deputy Sheriff. Appellant had spent most of his service time at the various detention facilities operated by the Department. He received good performance reviews, as well as two minor disciplinary actions. Prior to his discharge, Appellant was assigned to patrol duty at the Compton Station, where he performed his duties well. On October 1, 2015, Appellant took the day off so that he could attend an evening celebration at the Tilted Kilt in the City of Orange. Various Compton deputies were celebrating their transfer, and one a promotion. Appellant drove himself to the Tilted Kilt, arriving in the early evening. Appellant spoke to or saw one or more deputies upon his arrival and while at the Tilted Kilt, as will be discussed in the summary of testimony below. At approximately 2:00 am on the morning of October 2, 2015, Appellant left the Tilted Kilt and drove off, in a pickup owned by his partner [redacted] which he had been driving for several weeks. Shortly after leaving the parking lot Appellant was pulled over by Officer [redacted] of the Orange Police Department. Appellant was initially stopped because he ran a red light, but then Officer [redacted] noticed that the vehicle Orrego was driving had expired registration tags.

When Officer [redacted] approached the stopped vehicle and asked for Appellant's driver's license and registration. Appellant handed her his Sheriff's Identification Card. [redacted] asked Appellant if he was armed ... at he had a holstered pistol on the seat next to h ... icle. Eventually [redacted] obtained Appellant's drive ... ppellant's wallet.

[redacted] called for back-up units. During this period of time Appellant's car partner, Deputy [redacted] approached the scene. [redacted] had been following Appellant from the Tilted 3 Kilt in his own vehicle. [redacted] acknowledged Aldama and told him to stand off. Other Orange Police Department officers arrived and Appellant was told to exit the vehicle. Appellant was asked a series of field interview questions. He performed the physical tests as asked, but refused to provide a breath sample. [redacted] then arrested Appellant for Driving Under the Influence of alcohol. After his arrest, Appellant was offered a choice of breath or blood sample. He initially chose the breath test, but could not complete the test. As a result, some time later, a technician arrived and drew a sample showing a .14 blood alcohol concentration.

Appellant was cited for 23152(a) CVC and 23152(b) CVC. [redacted] took possession of Appellant's firearm. [redacted] then drove Appellant home.

Appellant pled guilty in Orange County Superior Court to one count each of 23152 (a) and 23152 (b) CVC and was placed on three years probation.

Chief Joseph Gooden ("Gooden") of the Sheriff's Department testified as the official who eventually directed the investigation in to the Appellant's actions, acted as the Skelly Officer, and made the recommendation to discharge Appellant. Gooden has 30 years of service with the Department. At all times relevant to this matter, Gooden was the Commander of various patrol stations, including Compton. Gooden testified that the investigation into the Appellant began as a

unit level investigation at the Compton station. Gooden decided to have the matter removed from the unit level and referred to the Internal Affairs Bureau. (TR II- pp. 137-138) He made the change as he felt there was a conflict of interest at the station level and that the scope of the investigation was insufficient.

Gooden testified that he reviewed the audio and video tapes of the incident which ended with Orrego's arrest. He was particularly appalled by Orrego's unprofessional language which he testified was demeaning to the arresting officer. He also was very concerned that the Appellant asked for professional courtesy to avoid arrest, including producing his Sheriff's identification when asked for his driver's license. Gooden testified that it is essential in accord with departmental policy, that officers are not deemed as above the law. He further testified that the arrest of Orrego, in and of itself, brought discredit on the department.

Gooden testified that the Appellant falsely stated to the Orange police officers that the colleague who owned the truck he was driving at the time of arrest had attended the party and had driven the truck to the party. Gooden also testified that Orrego stated that he withheld certain information from the investigating officers because he, Orrego, deemed it not pertinent to the investigation.

Gooden also testified that he determined that Orrego made false and inaccurate statements as to the fact that he wasn't drinking at the party and that he hadn't associated with other employees at the Tilted Kilt. He concluded this based upon the fact that Appellant was at the bar for more than 5 hours and had been seen drinking by others.

Gooden also testified that he felt it was hard to believe that Appellant took a day off to attend the party, that 20 to thirty of Appellant's co-workers were at the party, and that somehow

Appellant didn't see or associate with any of them at the party until he left at 2:00 a.m. (TR: 2, p 154)

Gooden further testified that he did not believe that Appellant was driving in order to park his vehicle, but that he had intended to enter the freeway, which was just beyond where he was stopped. He also felt that Appellant having his loaded personal firearm next to him in the car when he was stopped was a violation of policy, in that Appellant was legally intoxicated when in possession of the hand gun.

In determining the cumulative penalty for Appellant, Gooden essentially stated that the DUI merited a 15-day suspension, an additional 5 days for possessing the firearm while intoxicated, and an additional 5 days for the derogatory language to the Orange officer. But Gooden testified that Appellant's failure to make truthful statements and to cooperate fully during the investigation increased the penalty to discharge. Gooden also referenced the likelihood of Brady and Pitchess motions concerning Appellant's testimony as the arresting officer if he were to continue as a sworn employee of the Department. (TR II, pp. 162-163)

Sergeant Investigator John Adams testified that he was an investigator with the Department's Internal Affairs Bureau who was assigned to the Orrego matter after a unit level investigation had been conducted by Lieutenant Mitry. Mitry testified that he interviewed Lieutenant Nabeel Mitry, Sergeant [redacted] Deputy [redacted] Deputy [redacted] Captain Jason Skeen, Sergeant Arthur Thomas, and Sergeant Angel Fisher. Mitry also interviewed Appellant twice. Adams authenticated the investigative record and arrest report. During Adams' testimony various video and audio recordings from the arrest scene were played. On one of those recordings Appellant states that he was "driving to the freeway". At one point

Officer [redacted] advises Appellant that she is going to arrest him, and he asks her if she was going to arrest a deputy sheriff.

Deputy [redacted] testified that he attended an event at the Tilted Kilt in Orange on October 1st, arriving between 7:00 and 9:00 p.m. [redacted] said that he and Appellant walked into the Tilted Kilt together, and were kind of excited to be there. [redacted] testified that he left around midnight, that he did not interact with Appellant after arriving, and that there were some 30 department employees present in the patio area of the bar.

Deputy [redacted] testified that he had stored his pickup at the residence of Appellant and had given Appellant permission to drive it. [redacted] testified that he was not present at the Tilted Kilt on October 1st. [redacted] testified that Appellant was a good hard worker who was respectful of authority.

Detective [redacted] testified that he attended the gathering on October 1st, and that it was in part because he had promoted to detective and was returning to Compton Station. [redacted] testified that he arrived around 8:00 pm and left around 1:30 pm. He did not interact with Appellant, but thought Appellant was an excellent employee. When recalled to testify further, [redacted] said that he did see Appellant at the Tilted Kilt but didn't recall any details. He again testified that Appellant was a very hard and effective worker.

Donald William Michiporak testified that he was retired from the department and that he was previously the supervisor of Appellant at the Men's Central Jail in 2011. Michiporak testified that Appellant was an excellent deputy, and that he had similar reports from Compton Station.

[redacted] *testified that she was a corporal in the Orange Police Department with 11* years of service, and that she was certified as a Drug Recognition Evaluator. [redacted]

authenticated Department Exhibit 23 as the arrest report from the morning of October 2nd. The witness testified that she stopped Appellant for running a red light. That when she asked for his driver's license, registration, and proof of insurance he instead handed her his Sheriff's Department ID card. When she asked him if he was armed he leaned back and showed her the pistol hand grip next to his left leg. [redacted] instructed him to put both his hands on the steering wheel, to which he responded that he was a Sheriff's deputy. After being asked again, he complied. After [redacted] arrested Appellant, she gave Appellant the option of a chemical or breath test. Appellant elected breath, but in her opinion deliberately failed to give a second breath sample. Eventually a phlebotomist was called to take a blood sample. The test was administered in the field at the site of the arrest. [redacted] said it was done in the field, as opposed to at the detention facility, as a courtesy to the Appellant. Both Appellant's gun and the vehicle he was driving were released to Deputy Aldama, who had been nearby during the stop and subsequent arrest.

[redacted] also testified that Appellant referred to her as "sweetie". She said that Appellant said he always let peace officers go if he stopped them for a DUI.

Sergeant Keith Schumaker testified that Appellant had done very good police work on *the job at Compton Station, most of the work after the time of his arrest.*

John Hidalgo testified that he represented the Appellant in the related criminal proceedings and the Appellant's plea. Hidalgo testified that his analysis of the evidence indicated that the light that Appellant was stopped for running was yellow, not red.

[redacted] testified as a sergeant with the Orange Police Department. [redacted] who was at the scene of the arrest, testified that Appellant effectively said that he didn't arrest other peace officers under similar circumstances. Nevertheless, [redacted] testified that in fact they did show

certain courtesies to the Appellant, including not booking him at the station, doing the blood test at the roadside, not towing his car, and not booking the gun.

[redacted] Chief of Police for the City of Westminster, testified on behalf of Appellant. [redacted] testified that he had previously served with the Sheriff's Department, including a period of three years as Captain of the Los Angeles Men's Central Jail. Appellant worked for him for a period of three years and performed very well. Appellant was included in a mission by the Department to El Salvador, and did a good job representing the Department.

Deputy Rogelio Benzor testified that he was a 10 year employee of the Department and had worked at Compton Station at the same time as Appellant for approximately 3 years. He testified that Appellant was a very hard worker and that he looked up to Appellant as a great example.

Deputy Jesus Sandoval testified that he was a training officer with the Department and had worked with the Appellant at Men's Central Jail and then at Compton Station. He testified that the Appellant was the best trainee at the Station and was always ethical in his work and character, and an asset to the Station. Sandoval was social friends with the Appellant and did not attend the event at the Tilted Kilt.

Detective [redacted] testified that he had worked with Appellant at Men's Central Jail and at Compton Station. He further testified that Appellant was an asset to the Department and was very good at arresting gangsters with guns.

Deputy Jaime Juarez testified that he was the scheduling officer at the Compton Station at the same time Appellant was assigned to the Station. He testified that Appellant led the Station in gun-related arrests each year that Appellant was assigned to the Station.

Deputy [redacted] testified that he worked with Appellant at the Inmate Reception Center and later at Compton Station. He described Appellant's work on the Summer Enforcement Team as pro-active police work intended to remove as many guns as possible from the community, thus preventing murders and assaults. He describes Appellant as a great family man and a social acquaintance.

Mizrain Orrego testified as the Appellant in his appeal. Orrego said that his conduct and statements that night were "not who I am". He denied deliberately failing to complete the second breath test. He also denied attempting to deceive the IAB investigator's questions. He denied drinking with his fellow deputies, but instead drinking with others at the bar for several hours. He stated that he loved working for the Department and thought it was an honor. He stated that he was pretty sure that Deputy Aldama, his car partner, and he planned to go to the Tilted Kilt event together. He stated that he didn't know many of the staff at Compton. When he arrived at the Tilted Kilt, he had not had anything alcoholic to drink. Orrego admitted on cross-examination that when he left the Tilted Kilt he could feel that effects of the alcohol and that he didn't want to drive a long distance. Orrego confirmed that he did not dispute anything in the Orange Police Department arrest report. Orrego admitted that he did ask for professional courtesy from Zvonaru due to his position as a Deputy Sheriff. (TR: III, p. 58)

Orrego admitted that he told [redacted] that the owner of the truck he was stopped in was a friend who had been at the party, but did not know why he said that since the owner was not at the party. He also stated that he did not fully answer the question because he felt it was not pertinent to the investigation. Orrego also said that to his knowledge Aldama, who had been drinking that night, was not investigated or disciplined in any way. He stated that he greatly regretted his actions that night.

DISCUSSION

Most of the relevant facts in this appeal are not in dispute. Appellant was arrested for Driving Under the Influence, and pled guilty to C.V.C. 23152 (a) and C.V.C. 23152 (b), plus 3 years' probation and various other conditions. The presence of various recordings of the events early that morning makes many of the underlying events undeniable, including the level of intoxication.

During the investigation, Appellant claimed that after entering the bar, he only associated with strangers, and did not contact the thirty or so Sheriff's personnel at the outdoor bar. While few if any witness remember him, it strains credibility that he took the day off, drove some distance to attend the event, remained there for six hours to closing time, and never associated with his peers, including his car partner. Appellant contends that he was looking for a parking place to leave his vehicle, so that he could be driven home by his colleague Aldama. It is not clear to me that Appellant might not have just entered the freeway to go to his home but for the fact that he was stopped by the Orange Police Department. During the lengthy period of time following the stop and ending with Orrego's arrest, he made various demeaning and offensive remarks to Corporal [redacted] the arresting officer. While it may well be that, but for the degree of his intoxication, he would not normally have spoken in this fashion the fact is that he did call [redacted] "sweetie". He also demeaned the Orange Police Department and the type of crimes they deal with, as opposed to the dangerous situations he dealt with in policing Compton. Orrego also told [redacted] that he did not arrest sworn personnel if the stopped them, but instead let them go.

Chief Gooden, the decision maker in Orrego's discharge, raised the very real concern that Orrego's conviction on these charges under these facts could affect his future credibility in arrests he might make, as they would raise Brady issues in the event of a criminal defendant's Pitchess motion.

There is no doubt that Orrego was in possession of his personal firearm in the front seat of his car when stopped. Testimony in the hearing established that Departmental policy prohibits an officer being in possession of a firearm while intoxicated, which Orrego undeniably was.

Orrego had a strong personnel record, with many outstanding evaluations and recognition for superior work. In the past, he had been recognized by the Department as an outstanding representative to send on a mission to El Salvador. His personnel file also contained two minor actions, neither of which were relevant or considered in this action.

The appropriateness of the decision to discharge Appellant has to be considered in the context of Department's Ex. 1, Notice of Discharge and in Appellant's Ex. A, LASD Guidelines for Discipline Handbook.

Charge 1 is based upon four different sections of the Manual of Policy and Procedures ("MPP").

The Department's range of discipline for violation of MPP 3-01/000.13 Professional Conduct-Core Value is written warning to discharge. The range of discipline for violation of MPP 3-1/030.05, General Behavior ranges from written warning to discharge, depending upon the nature of the offense; the range of discipline for violation of MPP 3-01/030.85 involving law enforcement ranges from 15 days suspension to discharge; the range of discipline for violation of MPP 3-01/030.75 use of identification to solicit a privilege ranges from 1 day suspension to

discharge; the range of discipline for violation of MPP 3-01/030.10 off duty drunk driving ranges from 15 days to discharge.

Charge 2 charges the Appellant with violation of MPP 3-01/040.75, false statements during an internal investigation ranges from 25 days to discharge.

Charge 3 charges the Appellant with violation of MPP 3-01/040.70 Dishonesty/False Statements, with a range of 10 days to discharge; and violation of MPP 3-01/040.85 Cooperation During Criminal Investigation ranges from 15 days to discharge.

Charge 4 charges the Appellant with violation of MPP 3-01/.025.45 Safety of Firearms with a penalty ranging from 15 days to discharge.

Chief Gooden's testimony shows the weight that he attributed to each of the charges as shown by the record in reaching the final decision to discharge Appellant. Beginning with the drunk driving contained in Charge 1, Gooden assigned a penalty of 15 days, which is well within the MPP range. Charge 4, relating to the firearm, Gooden assigned an additional penalty of 5 days, which is actually less than the minimum of 15 days suggested in the MPP. The derogatory language towards police officers he assigned a value of 5 days, again less than the suggested 10 day minimum. Gooden also stated that the use of identification would still have left the penalty in total at a 25 day suspension.

But Gooden testified that Appellant made dishonest or misleading statements during IAB's internal investigation, and that Appellant also made untruthful or misleading statements to the Orange Police Department, and that those aggravating offenses merited the penalty of discharge. Providing untruthful statements to an internal investigation is listed in MPP 3-01/040.75 as having a suggested penalty of 25 days suspension to discharge. Giving false or misleading statements during an outside law enforcement investigation is listed in MPP 3-

04/040.85 as having a penalty of 25 days to discharge, and failure to cooperate that is alcohol-related has a penalty of 15 days to discharge.

The penalty of discharge is fully within the range of discretion provided for the Department, particularly in view of the cumulative and overlapping degree of the various charges. Chief Gooden's description of the cumulative values of these charges resulting in the decision to discharge is appropriate.

It is my conclusion that the Department's decision to discharge Appellant is appropriate and in accord with Departmental policies and procedures.

FINDINGS OF FACT

1. Mizrain Orrego or Appellant was employed by the Los Angeles Sheriff's Department as a Deputy Sheriff when he was discharged for cause, effective August 1, 2017.
2. Orrego was assigned to the Compton Sheriff's Station for approximately six months prior to the events in question.
3. On October 1, 2016 Orrego went to a celebration for some fellow employees.
4. The celebration was held at the Tilted Kilt in the City of Orange.
5. Orrego arrived around 7:00 - 8:00 pm.
6. Orrego left the Tilted Kilt at 2:00 am in the company of Deputy [redacted]
7. Orrego drove his friend's pickup a few blocks until he ran a red light.
8. Orrego was stopped by Officer [redacted] of the Orange Police Department.
9. When asked to produce his driver's license, he instead proffered his Sheriff's ID.
10. When asked if he was armed, he moved to show his handgun next to him.
11. After other Orange officers arrived, [redacted] retrieved Appellant's license from his wallet.

12. [redacted] observed his breath smelling of alcohol.

13. Orrego made several remarks critical of the Orange Police Department.

14. Orrego said that in Compton he was doing real police work

15. Orrego called officer [redacted] "sweetie".

16. Orrego said he let other sworn officers go when stopped by him for drunk driving.

17. Orrego said that the owner of the truck he was driving was also at the party.

18. The owner of the truck did not attend the party.

19. Orrego violated 3-01/040.70 with his false statements to officers.

20. Orrego did not complete the required two sample breath test.

21. A technician called to the scene took a blood sample, which showed .14 BAC.

22. [redacted] released Orrego's car and gun to his colleague [redacted]

23. Orrego was arrested on charges of drunk driving.

24. Orrego eventually pled guilty to CVC 23152(a) and CVC 23152(b).

25. Orrego intentionally withheld information about the truck's owner.

26. Orrego exchanged greetings with Deputy [redacted] at the Tilted Kilt.

27. Some 30 fellow employees attended the celebration.

28. Orrego did not fully answer the questions of the Department's investigators.

29. Orrego initially told Orange officers that he had been celebrating with other deputies.

30. Orrego later that same morning denied he had been drinking with others

31. Orrego asked for a courtesy as a law enforcement officer.

32. Orrego violated MPP 3-01/030.75 by asking for courtesy.

33. Orrego had with him on the seat of his car his own automatic handgun.

34. Orrego was in violation of the duty of reasonable care relative to the weapon.

35. Orrego violated MPP 3-01 025.45 on October 2, 2016.

36. That the discharge fell within the guidelines of the Department's policies

CONCLUSIONS OF LAW

1. The Department has met its burden in proving that the allegations contained in the Department's letter of August 1, 2017 are true.

2. The Department has met its burden in proving that the discipline is appropriate and within the Departmental disciplinary policies.

RECOMMENDATION TO COMMISSION

Based upon the foregoing Findings of Fact and Conclusions of Law, the recommendation is that the discharge be sustained.

Dated: November 12, 2018

Respectfully Submitted,

Hugo S. Rossitter
Hearing Officer







COUNTY OF LOS ANGELES

HALL OF JUSTICE

JIM MCDONNELL, SHERIFF

August 1, 2017

Date of Department Hire 10/15/07

Deputy Mizrain Orrego, #[redacted]
[redacted]

Dear Deputy Orrego:

On June 8, 2017, you were served with a Letter of Intention indicating your right to respond to the Sheriff's Department's pending disciplinary action against you, as reported under File Number IAB IV2390151. You were also advised of your right to review the material on which the discipline was based.

You did exercise your right to respond. However, after review and consideration of the response submitted to support your position, it has been determined that the recommended discipline is appropriate.

You are hereby notified that you are discharged from your position of Deputy Sheriff, Item No. 2708A, with this Department, effective as of the close of business on August 1, 2017.

An investigation under File Number IAB IV2390151, conducted by Internal Affairs Bureau, coupled with your own statements, has established the following:

1. That in violation of the Manual of Policy and Procedures Sections 3-01/000.13, Professional Conduct – Core Values; and/or 3-01/030.05, General Behavior; 3-01/030.85, Derogatory Language; and/or 3-01/030.75, Bribes, Rewards, Loans, Gifts, Favors; and/or 3-01/030.10, Obedience to Laws, Regulations, and Orders (as it pertains to 23152(a) CVC, Driving Under the Influence of Alcohol or Drugs and/or 23152(b) CVC, Driving with a Blood Alcohol

Concentration of .08 percent or Greater), on or about October 2, 2015, you violated state law and brought discredit and/or embarrassment [redacted] the Department when Witness Officer [redacted] of the Orange Police Department conducted a traffic stop and contacted you. Subsequent investigation determined you were under the influence of alcohol, which resulted in your arrest, as evidenced by, but not limited to:

a. driving a vehicle while under the influence of alcohol; and/or,

b. failed to stop at a red traffic light; and/or,

c. displaying the objective signs of intoxication and emitting the odor of an alcoholic beverage from your breath when you were contacted by Orange Police Department personnel; and/or,

d. performing poorly when personnel from the Orange Police Department administered field sobriety tests; and/or,

e. performing and/or providing one breath sample that recorded .13 percent Blood Alcohol Concentration (BAC), and/or failing to provide a second sample, ultimately voiding the test; and/or,

f. asking for favors or gratuity which would not ordinarily be accorded to private citizens; and/or,

g. making derogatory and/or demeaning comments directed at arresting officer(s); and/or,

h. failing to cooperate with arresting officers, and/or failing to provide a preliminary breath sample to arresting officers; and/or,

i. being arrested for and/or charged with 23152(a) CVC, Driving Under the Influence of Alcohol and Drugs, and 23152(b) CVC, Driving with a Blood Alcohol Concentration of .08 percent or Greater, (Orange Police Department Report Number 15-10-0051).

2. That in violation of the Manual of Policy and Procedures Section 3-01/040.75, Dishonesty/Failure to Make Statements and/or Making False Statements during Departmental Internal Investigations, on or about February 24, 2017, you made false statements during an internal investigation, as evidenced by, but not limited to:

   a. claiming that you only saw Witness [redacted] at the restaurant on October 1, 2015. Whereas Witness [redacted] indicated having talked to and/or interacted with you as they arrived to the gathering sometime between 1900 and 2100 hrs, and Witness [redacted] said that he believed you were present but did not recall interacting with you on October 1, 2015; and/or,

   b. stating to IA investigators that your intention was to park your vehicle and have Witness [redacted] drive you home.

3. That in violation of the Manual of Policy and Procedures Sections 3-01/040.70, Dishonesty/False Statements; and/or 3-01/040.85, Cooperation During Criminal Investigation, on or about October 2, 2015, you failed to cooperate with the Orange Police Department and/or knowingly gave untruthful or misleading statements Orange Police Department during a criminal investigation, as evidenced by, but not limited to:

   a. stating to arresting officers that you were driving your friend's truck because the friend had left the party earlier, with someone else, and/or words to that effect when your friend denied being at the party at all; and/or,

   b. stating to arresting officers that you had been celebrating a Sergeants Promotion and then later denying that you were drinking with anyone, and/or words to that effect; and/or,

   c. failing or unwilling to provide a second breath sample; and/or,

d. asking for a courtesy due to your position as a law enforcement officer; and/or,

e. stating to arresting officers that you never saw other officers at Tilted Kilt, and/or words to that effect.

4. That in violation of Manual of Policy and Procedures Section 3-01/025.45, Safety of Firearms, on or about October 2, 2015, while off-duty and intoxicated, driving a vehicle, you were unable to exercise reasonable care and/or control of a firearm in your possession, which was on the bench seat of your vehicle, near your right hip.

Additional facts for this decision are set forth in the Disposition Worksheet, Investigative Summary and Investigative Packet which are incorporated herein by reference.

In taking this disciplinary action, your record with this Department has been considered, and a thorough review of this incident has been made by Department executives, including your Unit and Division Commanders.

You may appeal the Department's action in this matter pursuant to Rules 4.02, 4.05 and 18.02 of the Civil Service Rules.

You may, if you so desire, within fifteen (15) business days from the date of service of this notice of discharge, request a hearing on these charges before the Los Angeles County Civil Service Commission, 500 W. Temple Street, Room 522, Los Angeles, California 90012.

The Sheriff's Department reserves the right to amend and/or add to this letter.

Sincerely,

JIM McDONNELL, SHERIFF

JOSEPH M. GOODEN, CHIEF
CENTRAL PATROL DIVISION

Note: Attached for your convenience are excerpts of the applicable areas of the Manual of Policy and Procedures and Civil Service Rules.

JMG:KM:JSW:pc

cc: Advocacy Unit
Joseph M. Gooden, Chief, Central Patrol Division
Michael E. Thatcher, Captain, Compton Station
Internal Affairs Bureau
Kimberly L. Unland, Captain, Personnel Administration